

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PEDRO ARRIGO and) CASE NO. 04-66305
GLORIA JEAN ARRIGO,) Chapter 13
)
Debtors.)

ORDER ON MOTION TO RECONSIDER/ORDER SCHEDULING
HEARING ON OBJECTIONS TO CLAIMS

On June 21, 2005, the debtors, by counsel, filed an objection to claim #1 filed by Key Bank, USA, N.A.; this claim was filed on January 13, 2005. The sole basis for objection was that the claim is a duplicate of claim #4, filed by MTGLQ Investors, L.P. on March 16, 2005. The Court issued an administrative order on July 27, 2005, which stated that no action would be taken on the debtors' objection because the objection and notice thereof had not been served upon the claimant.

On July 29, 2005, the debtors, by counsel, filed a Motion to Reconsider the Court's Order of July 27, 2005, which established that the address utilized for service upon Key Bank, USA, N.A., was in compliance with a notice filed by that creditor on January 13, 2005. As the debtors' motion notes, the address utilized for service of the objection upon Key Bank, USA, N.A. comports with the request stated in the January 13, 2005 filing. That will take care of the Court's administrative order entered on July 27, 2005; however, that does not end the matter involving the debtors' objection to claim #1.

As stated, the sole ground for objection to claim #1 is that it is a "duplicate" of claim #4. Claim #1 is not a duplicate of claim #4. In claim #1, the creditor is designated as Key Bank, USA, N.A.; the account number is designated as 7434/1228159/POC/0050209; the amount of the claim is \$72,924.07; the arrearage with respect to the claim is stated to be \$19,831.21. In contrast, claim #4 is filed on behalf of a creditor designated as MTGLQ Investors, L.P.; the account number is

stated to be 34021527; the amount of the claim is \$71,443.28; the claimed arrearage is \$18,492.96.

There is nothing identical about these two claims. As that is the sole ground upon which the debtors asserted an objection to claim #1, the objection should technically be denied. However, it appears to the Court – given the Court's experience with, and perception of, the game of musical chairs played by the consumer finance industry with respect to the sale/purchase of consumer obligations – that there is a better than even chance that claim #1 and #4 refer to the same underlying obligation of the debtors, and that the creditor/players in the game of musical chairs have failed to appropriately coordinate the filing of claims to protect the interests of the entity who actually held the consumer paper on the date of the debtors' filing of bankruptcy. Given this experience/perception, the Court will not deny the debtors' objection to claim. However, the Court will not sustain that objection either. The Court finds that it is appropriate to provide an opportunity for hearing to both of the claimants with respect to which claim – either #1 or #4 – accurately reflects the debtors' indebtedness on the date of the filing of their bankruptcy petition, and which creditor is actually owed the obligation as of that date. It is, of course, possible that the creditors have totally independent debts – the hearing hereinafter scheduled will sort that out, as well.

IT IS ORDERED that the Court's order of July 27, 2005 is vacated.

IT IS FURTHER ORDERED that a hearing will be held on **October 17, 2005, at 1:45 P.M.** with respect to the debtors' objection to claim #1, filed on behalf of Key Bank, USA, N.A. on January 13, 2005, and with respect to claim #4 filed on behalf of MTGLQ Investors, L.P., by Ocwen Financial on March 16, 2005. NOTICE IS HEREBY GIVEN TO THE CLAIMANTS THAT IF NEITHER APPEARS AT THE SCHEDULED HEARING, THE COURT WILL DEEM CLAIM #4 TO BE AN AMENDMENT OF CLAIM #1; WILL ALLOW CLAIM #4 AS FILED; AND WILL DENY CLAIM #1.

Dated at Hammond, Indiana on September 15, 2005.

/s/ J. Philip Klingeberger
J. Philip Klingeberger
United States Bankruptcy Court

Distribution:

Debtors, Attorney for Debtors

Trustee, US Trustee

MTGLQ Investors, L.P., c/o Ocwen Financial, 12650 Ingenuity Drive, Orlando, FL 32826

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Key Bank, USA, NA, 1270 Northland Drive, Suite 200, Mendota Heights, MN 55120

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